

INTERNAL REVENUE SERVICE

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October 30, 2000

The Honorable Julian C. Dixon
U.S. House of Representatives
Washington, D.C. 20515-0532

Attention: Mr. Daniel Sanchez

Dear Mr. Dixon:

Commissioner Rossotti asked me to respond to your inquiry of August 28, 2000, on behalf of a constituent. Your constituent wants to know when the IRS will issue regulations defining "unforeseen circumstances" under § 121 of the Internal Revenue Code.

Your constituent would like to sell her condominium residence and exclude the gain under § 121. Four years ago she moved out of the condominium for financial reasons and was unable to sell it because of a depressed real estate market. Thus, at the present time she does not meet the "use" requirement of § 121. She hopes the unforeseen circumstances provision will apply to her situation.

The Taxpayer Relief Act of 1997 added a special rule that provides relief if the sale or exchange of a principal residence results from a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances. Under these conditions the taxpayer may be entitled to a reduced exclusion even if the use and ownership requirements are not met.

The IRS published proposed regulations under § 121 on October 10, 2000. The proposed regulations do not define what unforeseen circumstances are, but do invite written comments from the public about what should qualify under that special rule. We will consider your constituent's circumstances in preparing the final regulations. Until the IRS provides such guidance in forms, instructions, final regulations, or other appropriate ways, taxpayers may not use unforeseen circumstances to claim a reduced exclusion under § 121.

I hope this information is helpful. Please call me at (202) 622-4800 or Ms. Marilyn E. Brookens, Identification Number 50-00819, at (202) 622-4920, if you have any questions.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Income Tax & Accounting)